

Notice of Allowability

Application No.

10/088,582

Examiner

Robert L. Nasser

Applicant(s)

DAMGAARD ET AL.

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone conversation of 12/19/2006.
2. ☒ The allowed claim(s) is/are 7,9-11,13-16,29,30 and 32-41.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Robert L. Nasser
Primary Examiner
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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Robert Conte on December 19, 2006.

The application has been amended as follows:

Claim 31 has been canceled. Claim 31 was incorporated into claim 41 and should have been canceled in the previous amendment.

Claim 41 has been rewritten as follows:

-- 41. (new) Sensor for the measurement of tissue perfusion where a fluid or gaseous tracer is being supplied from a tracer source via a reservoir (4) to the tissue, the perfusion of which is to be measured, and detected by a detection device via a detection cavity (5), comprising:

a reservoir;

a detection cavity;

a first tracer permeable barrier arranged such that the supply of tracer from said reservoir to the surrounding tissue takes place via a spatially extended first area;

a second tracer permeable barrier arranged such that a part of the tracer molecules leaving said reservoir arrive at said detection cavity via a spatially extended second area;

said reservoir and said detection cavity are separated by a third barrier;

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the reservoir, the first and second tracer-permeable barriers, the third barrier, and the detection cavity are built together to form a longitudinal sensor; and

a tracer impermeable panel or disc on one side of the longitudinal sensor, where the panel or disc has at least opposing large surfaces,

wherein said reservoir, said detection cavity and said first second-permeable barriers, and third barrier are adapted to be located between a surface of a tracer-impermeable panel or disc and a surface of said tissue, with a surface of the panel or disc facing the tissue, such that a longitudinal axis of the sensor is substantially parallel with said large surface of the panel or disc, and further such that said spatially extended tracer-permeable barriers would be partly in contact with the surface of the skin or organ, and such that tracer can move from said reservoir into said skin or organ and from there into said detection cavity, or directly from said reservoir into said detection cavity;

and said panel or disc on the side that faces surface of the tissue when in use is provided with a pattern of partially open channels which can be connected to a vacuum source. —

This change was made to eliminate some redundancies and to positively recite the panel or disc, which forms the allowable subject matter.

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The following is an examiner's statement of reasons for allowance: Claims 7, 9-11, 13-16, 30, and 32-40 are allowable define over the art in that none of the art has the mutually interspaced chambers. Claims 29 and 41 define over the art in that none of the art has the panel or disk with a plurality of channels, as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert L. Nasser
Primary Examiner
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RLN

December 19, 2006

ROBERT L. NASSER
PRIMARY EXAMINER

Robert L. Nasser